

Order

Michigan Supreme Court
Lansing, Michigan

March 19, 2008

Clifford W. Taylor,
Chief Justice

135395

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 135395
COA: 281107
Manistee CC: 06-003653-FH

LONNIE ROBERTS RATLIFF,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 13, 2007 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the sentence of the Manistee Circuit Court and REMAND this case to the trial court for resentencing. The trial court's assumption that the defendant would be required to serve additional prison time on his parole sentence before serving the instant sentence was not objective and verifiable, and in fact was erroneous. Furthermore, the possibility of a current prisoner or parolee serving a sentence in the county jail does not relate to the seriousness of the offense or the culpability of the offender, and is not a compelling reason to deny the defendant an intermediate sanction to which he is entitled by statute. MCL 769.34. On remand, the trial court shall sentence the defendant within the appropriate sentencing guidelines range, or articulate on the record a substantial and compelling reason for departing from the sentencing guidelines range in accordance with *People v Babcock*, 469 Mich 247 (2003). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



d0312

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 19, 2008

Corbin R. Davis

Clerk